

Rameshwar Yadav Vs. Pinki @ Devendra Kumar

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Court : Madhya Pradesh

Decided On : Jul-18-2013

Appellant : Rameshwar Yadav

Respondent : Pinki @ Devendra Kumar

Advocate for Pet/Ap. : Shri. Satyendra K.Patel

Judgement :

Cr.A.No.791/2012 18.7.2013 Shri Satyendra K.Patel, learned counsel for the appellant.

Shri Bramha Datt Singh, Government Advocate for respondent no.2-State.

Heard on admission.

This appeal has been preferred by the victim Rameshwar Yadav, author of the FIR (Ex.P/1) and injured, under Section 372 of the Code of Criminal Procedure (hereinafter referred to as the Code.) being aggrieved with the judgment of acquittal passed by II Additional Sessions Judge, Mandla on 30/1/2012 in Sessions Trial No.61/2010, whereby respondent no.1 Pinki alias Devendra Kumar has been acquitted of the offence punishable under Section 326 of the Indian Penal Code (IPC.

for short) and 25(1)(1B)(b) read with Section 27 of the Arms Act.

It was argued on behalf of the appellant that the learned trial Court has erred in appreciating the evidence and material on record and, therefore, the impugned judgment deserves to be set aside and respondent no.1 should be punished.

On the contrary, learned G.A., while making reference to the entire evidence on record, submitted that the judgment passed by the trial Court is well merited.

We have perused the impugned judgment and also the record of trial Court.

As per the prosecution case, at about 8.40 p.m., in the night of 17.6.2010 at Village Khatia, Mogli Road Tiraha, respondent no.1 caused an injury with a Sword to the appellant while he was going on a Motorcycle along with Satish Yadav (PW4). In the result, appellant fell down from the Motorcycle.

On the medical examination of appellant grievous injury on the left hand, one incised wound on the anterior side of left wrist joint and one abrasion on the proximal phalanx of ring finger on palmar side on the right hand were found.

The weapon sword having a size of 16.

in length, 1.

in width and handle of 4., was used for committing the offence.

The prosecution had examined Santu alias Basant Patel (PW2) and Ramjan Khan (PW3) as eye-witnesses but they turned hostile.

Rameshwar (PW1).complainant and Satish Yadav (PW4).pillion rider, were also examined and after appreciation of the whole evidence the trial Court has held that in fact at the time of the incident in front of Kirana shop of Santu (PW2).complainant Rameshwar, his son Ghanshyam and Naresh Yadav were quarrelling with one Mr.Arun alias Bablu, elder brother of respondent no.1.

At that time respondent no.1 Pinki came there to intervene and at the same point of time, complainant Rameshwar reached there by Motorcycle and due to sudden application of brakes, he fell down with Motorcycle and due to this reason, abovementioned injuries were received.

As per the statement of Dr.P.C.Masuraha (PW6).injuries of complainant might come in such an accident.

It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

Taking into consideration the reasons assigned in the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view.

As such, no interference is called for with the order of acquittal in question.

The appeal, therefore, stands dismissed in limine.

(AJIT SINGH) (B.D.RATHI) JUDGE JUDGE (and)

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